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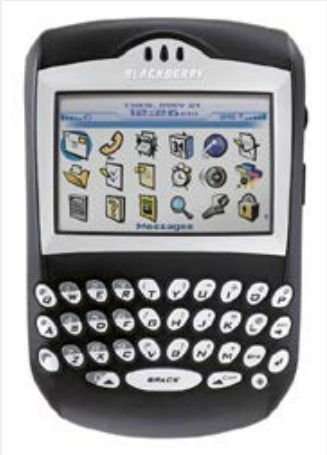
An unending variety of topics

Sunday, March 05, 2006

BlackBerry settlement



Research In Motion, Ltd. of Canada, the maker of the BlackBerry, has settled with NTP over its patent lawsuit for $612.5 million. Hopefully unlike the previous settlement this one will stick so that Americans can use our BlackBerries clear of these clouds.

There were many interesting issues in this case, including cross-border infringement. Two other interesting parts of this case were the court's refusal to order an injunction and the U.S. Patent and Trademark Office (PTO)'s re-examination of NTP's patents. Any settlement would almost surely have been far higher if the injunction had gone through and if the PTO had not started rejecting NTP's patent claims. The importance of the "CrackBerry" to a wide variety of business and government operations could have worked greatly in NTP's favor, since the cost of shutting down BlackBerries in the United States could have cost RIM billions, but it also helped convince many politicians, who pressured the USPTO and perhaps the judge, that there was no way to shut down the network without disrupting some emergency services in the U.S.

It will be interesting if we learn to what extent RIM's stated ability to quickly replace its software to avoid NTP's patents, in the event that the court did order a shutdown of the United States part of the network, was reality or a bluff. This was again a double-edged

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Nick Szabo

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argument as on the one hand RIM hoped to convince NTP an injunction would not cost it billions, but on the other hand it might have convinced the judge that a shutdown would not cause the feared disruptions.

The strategic landscape regarding this settlement was as a result of all these factors, and more, quite interesting. As I am fascinated by civil procedure and settlement strategy, I will probably be posting more about the strategy in this case in the near future.

Posted by Nick Szabo at 7:39 PM

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